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RL:0197

HB 309

RELATING TO THE REMOVAL OF CORAL

House Committee on Ocean and Marine Resources
Public Hearing, 17 February 1977

by
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HB 309 proposes amendments to State laws to strengthen the control of coral removal. The bill appears identical to HB 2941 (1976) HD 1, which in turn was prepared from HB 3940 (1976) and HB 2941 (1976) on which the Center prepared a statement (RL:0180, 9 March 1976). This statement is based in part on that earlier statement. It is being submitted for review to the Legislative subcommittee of the Environmental Center of the University of Hawaii but does not represent an institutional position of the University.

HB 309 proposes transfer of the provision for the control of coral removal from Sec. 205-33 of Hawaii Revised Statutes, a section in the Shoreline Setback law, to a new section to be added to HRS Chapt. 188, which deals with Fishing Rights and Regulations. In the Shoreline Setback law, the control is restricted to within 1000 feet of the shoreline or water of no more than 30-foot depth, the control is administered by the county planning departments, and the coral is described as if a "beach composition." All of these provisions represent serious limitations in effectiveness, because coral is liable to removal beyond the distance and depth limits, the planning departments are not staffed to handle the responsibility and the coral of primary concern is coral heads attached to the sea floor and not the coral fragments on beaches.

The shore waters are part of the Conservation Land Use District of the State, within which uses are subject to the control of the Department of Land and Natural Resources. However, DLNR apparently has no specific regulation covering coral removal.

The proposed new section of Chapt. 188 would make it unlawful to remove coral anywhere within the waters of the State without a permit from DLNR, and would require DLNR to establish rules relating to such permits. Subsection (b) provides that "Removals of corals may be permitted at rates not exceeding those of natural replacement." This provision is appropriate in the case of the precious corals living in deep water. Removals of live reef corals in shallow water at replacement rates is, however, not everywhere appropriate. It should

be understood that DLNR is not mandated to permit removals at such rates.

Although the intent of the Act is to control the removal of live corals, and perhaps coral heads in place, it might be construed as prohibiting such actions as the collection of coral fragments from the beach. Such collecting is controlled by HRS Secs 7-3 and 205-33, under which collection for domestic use is allowed without special permit. The intended limitation in the applicability of the Act might be indicated by replacing the term "coral," where it is first used in the new section of HRS 188, with the phrase "live coral or coral heads in place," or by defining the word "coral" in this sense in an inserted subsection. The intended limitation should at least be indicated in the Committee report on the bill.

The word "removal" toward the end of the first line of subsection (c) of the proposed new section of HRS 188 is, we believe, intended to be "renewal."

Other provisions of the bill, including penalties, time limits, and permit charges, seem appropriate.